

March 1999

Re: NEPA Call-In Technical Inquiry 0478 - Public Meeting for DEIS

This letter is in response to your March 8, 1999 request for guidance on public participation in regards to the issuance of a Draft Environmental Impact Statement (DEIS). Specifically, you wanted to know if you had to schedule a public participation meeting after the DEIS was filed with the Environmental Protection Agency (EPA).

## SUMMARY OF FINDINGS

NEPA Call-In determined that the Council on Environmental Quality (CEQ) regulations does not require the agency writing the DEIS to hold a public participation meeting, but the GSA NEPA Desk Guide specifies that it is appropriate to have public involvement during the review of the DEIS, that can include a public meeting. GSA must allow at least 45 days for public comments on the DEIS. Our detailed findings are provided below.

## DETAILED FINDINGS

NEPA Call-In reviewed the Code of Federal Regulations (CFR) Title 40, Chapter V, "Council on Environmental Quality", parts 1500 through 1508 in regards to your inquiry (enclosed). Section 1503.1 (a) (4) "Commenting" states, "After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall: ... request comments from the public, affirmatively soliciting comments from those persons organizations who may be interested or affected." We then reviewed 40 CFR Part 1503.4 "Response to Comments," which states the agency preparing the final EIS must assess and consider all comments received and respond to them as outlined in this section. Part 1503.4 (b) further states that the agency must attach all substantive comments received on the DEIS.

NEPA Call-In also reviewed 40 CFR Part 1506.6, "Public Involvement," which states agencies shall hold or sponsor public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency, and make all NEPA documents available pursuant to the Freedom of Information Act (FOIA), in addition to several other specific requirements outlined in this section. Title 40 CFR 1506.6 (c) says agencies should hold or sponsor a public meeting if there is substantial environmental controversy concerning the proposed action, substantial interest in holding a public meeting, or if requested by another agency with jurisdiction over the action. In addition, no decision on the proposed action shall be made or recorded 90 days from the date of publication in the Federal Register and agencies shall allow no less than 45 days for comments on the DEIS, (40 CFR 1506.10 (b) (1)) and (40 CFR 1506.10 (c)).

NEPA Call-In then reviewed the NEPA Desk Guide, Interim Guidance, September 1997. The Desk Guide does not require you to have a public meeting once the DEIS has been filed with the EPA, but section 4.2.1, "When Is Public Involvement Appropriate?" states that public involvement is appropriate during the review of the results of analyses. This public involvement can include a public meeting.

Therefore, it appears there is no requirement in the CEQ regulations to hold a public participation meeting after making the DEIS available to the public, but the NEPA Desk Guide states that public involvement is appropriate, which can include a public meeting. Further, the agency must allow at least 45 days for public comments on draft statements.

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Sincerely,

(original signed)

NEPA Call-In Researcher